

GAU1655\$

#13
B. Webb
12/11/99

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on September 28, 1999

Drew Herndon

(Typed or Printed Name of Person Mailing Paper or Fee)

Drew R. Herndon

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PATENT

Attorney Docket No. 16842-750

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Kenneth J. Livak et al.

Application No. 09/207,170

Filed: December 7, 1998

For: HYBRIDIZATION ASSAY USING SELF-
QUENCHING FLUORESCENCE PROBE



Group Art Unit: 1655

Examiner: J. Riley

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**PETITION TO CONSIDER INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97(d)**

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants hereby Petition the Assistant Commissioner to consider the references cited in the attached Information Disclosure Statement. The Information Disclosure Statement is being submitted after receipt of a Notice of Allowance, but before payment of the issue fee, and is therefore accompanied by this Petition to Consider in accordance with the provisions of 37 C.F.R. 1.97(d). Also attached hereto is a Certification as required by this paragraph.

Please charge the Petition fee of \$130.00 under 37 CFR 1.17(i) to Deposit Account No. 23-2415 (Docket No. 16842-750).

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.Application No. 09/207,170
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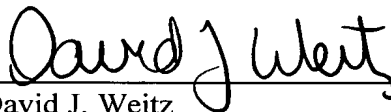
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The Commissioner is authorized to charge any additional fees which may be required, including petition fees, or credit any overpayment to Deposit Account No. 23-2415 (Docket No. 16842-750). A duplicate copy of this paper is enclosed.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

By:


David J. Weitz
Registration No. 38,362

650 Page Mill Road
Palo Alto, California 94304-1050
(650) 493-9300

Date: Sept. 27, 1999

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Drew Herndon

(Typed or Printed Name of Person Mailing Paper or Fee)

Drew A Herndon
(Signature of Person Mailing Paper or Fee)

PATENT
Attorney Docket No. 16842-750

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Livak et al.

Application No.: 09/207,170

Filed: December 7, 1998

Title: HYBRIDIZATION ASSAY USING SELF-
QUENCHING FLUORESCENCE PROBE



) **PATENT APPLICATION**

) Art Unit: 1655

) Examiner: J. Riley

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.97

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Listed below or on an attached Form PTO-1449 is information known to applicant(s). A copy of each listed publication and U.S. and foreign patent, except for pending U.S. applications, is being submitted herewith, along with a concise explanation of information in a foreign language, if any, pursuant to 37 C.F.R. §1.97-1.98.

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. If form PTO-1449 is enclosed, the Examiner is requested to initial and return it in accordance with MPEP §609.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56.

— This statement qualifies under 37 C.F.R. §1.97, subsection (b) because (check all that apply):

- (1) It is being filed within 3 months of the application filing date
-- OR --
- (2) It is being filed within 3 months of entry of a national stage
-- OR --
- (3) It is being filed before the mail date of the first Office Action on the merits.

— 37 C.F.R. §1.97(c). If this statement is being filed after the latest of: (1) three months beyond the filing date of a national application; (2) three months beyond the date of entry of the national stage as set forth in §1.491 in an international application; or (3) the mailing date of a first Office action on the merits, but before the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, then:

- a certification as specified in §1.97(e) is provided below; or
- a fee of \$240.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.

X 37 C.F.R. §1.97(d). If this statement is being filed after the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, but before payment of the issue fee, then:

- A. a certification as specified in §1.97(e) is completed below; **and**
- B. a petition under 37 C.F.R. §1.97(d) requesting consideration of this statement is submitted herewith; **and**
- C. a fee of \$130.00 as set forth in §1.17(i)(1) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.

X *Fee Authorization.* The Commissioner is hereby authorized to charge the above-referenced fees of \$ 130.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 23-2415 (Docket No. 16842-750). A duplicate copy of this authorization is enclosed.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

Date: Sept. 27, 1999

By: David J. Weitz
David J. Weitz
Reg. No. 38,362

650 Page Mill Road
Palo Alto, CA 94304-1050
(650) 493-9300

CERTIFICATION

(Attachment to Information Disclosure Statement)

- X 37 C.F.R. §1.97(e)(1). APPLICANT'S UNDERSIGNED ATTORNEY HEREBY CERTIFIES THAT each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the statement; or
- 37 C.F.R. §1.97(e)(2). APPLICANT'S UNDERSIGNED ATTORNEY HEREBY CERTIFIES THAT no item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the knowledge of the person signing this certification after making reasonable inquiry, was known to any individual designated in § 1.56(c) more than three months prior to the filing of this statement.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

Date:

Sept. 27, 1999

By:

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